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High court to hear dispute over trying CIA suit in R.I.

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WASHINGTON — In 1975 five persons, including a Rhode Islander, filed a class action in U.S. District Court, Providence, charging that the constitutional rights of thousands of citizens were violated when the Central Intelligence Agency opened letters addressed to them from the Soviet Union and other places.

Named as defendants in the suit were 25 former and present federal officials, including former CIA Director William Colby and his deputy, Vernon Walters.

The lawsuit, which sought more than \$1 billion in damages, touched off a legal dispute over whether the officials could be sued in Rhode Island, a dispute that first was considered by the U.S. Circuit Court of Appeals in Boston and that soon will be aired before the U.S. Supreme Court.

The nation's highest court, which agreed last January to accept the case, is scheduled to hear oral arguments Tuesday, a spokeswoman in the clerk's office said this week.

One source at the court said the justices probably will decide the issue before the court recesses in about two months.

Immediately before the hour of oral argument set aside for the Rhode Island case, the court is scheduled to hear arguments on a similar legal question involving a suit by U.S. citizens called to testify before a grand jury. Their lawsuit is aimed at a former Florida U.S. attorney, his former assistant, an FBI agent stationed in Florida and a Justice Department lawyer.

WHILE THE COURT apparently decided to hear arguments in both cases on the same day because they touch on similar legal questions, the spokeswoman said the court has not consolidated the cases — which means a separate decision is expected on each.

Scheduled to defend the right of his clients to sue the government officials in Rhode Island is Melvin Wulf of New York. He is representing Rodney Driver, a professor of math at the University of Rhode Island, and the others in the class action. The other side will be represented by Earl Harold Nemser of New York.

Wulf charged that Driver's mail was among the correspondence opened by the CIA during a mail-interception operation that ran from 1953 to 1973.

Wulf said the suit wasn't filed for two years, until 1975, because the mail operation didn't come to light until the Rockefeller Commission on CIA Activities completed its work. The commission charged that the agency opened as many as 13,000 letters a year during the 20-year period.

WHILE NONE of the government officials named in the suit lives in Rhode Island, Chief U.S. District Judge

Raymond J. Pettine ruled that a law dealing with civil suits against government officials gave him or any federal judge authority to hear the case.

The Circuit Court of Appeals subsequently upheld only part of Pettine's ruling, saying it applied only to federal officials who held the same jobs at the time of the 1975 suit as they did earlier when some of the mail openings occurred.

Those officials who left government service or switched jobs before the suit was filed would have to be sued in jurisdictions where they now live, the appeals court said. That decision effectively pruned the list of defendants who could be sued in Rhode Island to 10, including Colby and Walters.

Now the Supreme Court is expected to decide whether the lawsuit against Colby and the other nine can be heard in Rhode Island. Colby and Walters contend in their petition to the Supreme Court that a decision freeing the plaintiffs to sue them in any federal court in the land would be unreasonable.

The petition says that Colby, who is now retired and living in Maryland, has been sued on similar mail-opening grounds in federal courts in New York and Washington, as well as in Rhode Island.